



Executive
10th April 2006

**Report from the Director of
Housing and Community Care**

For Action

Wards Affected:
ALL

**Extension of Brent Housing Partnership Management
Agreement**

Forward Plan Ref: H&CC-05/06-25

1.0 Summary

- 1.1 This report advises Members on the current arrangements for the management of the Council's tenanted housing stock and requests approval for an extension of the current management agreement with Brent Housing Partnership.

2.0 Recommendations

- 2.1 To APPROVE the extension of the management agreement with Brent Housing Partnership for a 5-year period to 30th September 2012.
- 2.2 To delegate authority to the Director of Housing and Community Care to make amendments to the existing agreement where necessary.

3.0 Detail

- 3.1 Brent Housing Partnership (BHP) was set up on 1/10/2002 as an Arms Length Management Organisation with responsibility for managing the Council's housing stock. A report to the Executive on 29/7/2002 informed members of the reasons for creating the Arms Length Management Organisation (ALMO). At that time the Council had a residual stock of 10,500 tenanted properties and was freeholder to 3,000 leasehold properties, following large scale stock reductions with the transfers of the Chalkhill Stonebridge and Church End/Roundwood estates. The remaining stock had a substantial backlog of

repairs and improvement works that could not be resourced and that had an impact on levels of complaints and customer satisfaction, as well as the quality of life of tenants. The Council had considered its options for improving its stock in a report to the Public Sector Deciding Committee on 13/2/2002, in light of the requirement for all local housing authorities to produce a business plan showing clearly the options for improving and maintaining stock, and also in response to the Housing Green Paper 2000 stating that all Social Housing landlords nationally should meet a defined standard of decency within 10 years. The ALMO model was selected from the options available as the model that provided a real opportunity to access the funding to deliver quality homes to the Council's stock, and to achieve this within a short period of time, while taking into account the clear view of the majority of tenants that they wished to remain tenants of the Council.

3.2 The terms of the Management Agreement between the Council and Brent Housing Partnership were agreed by the Executive on 17/9/2002. These state that the "agreement shall expire on the day prior to the fifth anniversary Commencement Date unless extended by the Council..." (61.1). The Management Agreement also provides for the Council to "extend the term for one or more further periods of up to five years by giving notice to this effect to the Organisation no later than six calendar months before the date on which the Agreement would otherwise expire" (61.2). The expiry date of the initial five year agreement would therefore be 30th September 2007, requiring the Council to serve notice of any proposed extension no later than 31st March 2007. The Council is now within the final year for considering the future arrangements for management of the Council's housing stock and the long-term relationship with Brent Housing Partnership (BHP), this report is therefore asking members to consider whether they should extend the contract. It also considers the options if members were to decide not to extend the contract. BHP's board have formally requested at their meeting of 23rd February 2006, which was also attended by the lead member for housing and customer services and the Director of housing and community care, that the council does consider the extension at the earliest opportunity due to the fact that any perceived uncertainty which could have an effect on the delivery of services and is already starting to effect BHP's ability to plan for its long term future.

3.3 In agreeing to the creation of BHP as an Arms Length Management Organisation, the Council was required to confer genuine management freedom on the new company, enabling BHP to operate independently in as far as this is consistent with legislation and the regulatory framework relevant to limited companies, relevant Council policies and its contractual obligations to the Council. BHP is registered with Companies House, has its own board of 18 members, with its own reporting and sub-committee structure, and manages its own five year business plan in line with anticipated resources from the Council. In order to exercise these management freedoms effectively and to develop as an organisation, BHP will need to have some certainty about its future lifespan. As the end of the initial 5 year agreement approaches, BHP will be increasingly limited in making plans or committing resources that require a commitment beyond September 2007. This is also likely to affect staff recruitment and retention as external candidates are less

likely to be attracted to an organisation that may only have a future of 18 months, while experienced staff currently with BHP may be attracted by opportunities with other organisations that can offer longer term prospects, particularly the more recent ALMOs. Clearly in making its decision Members need to be clear that arms length management is the appropriate option in the future as opposed to stock transfer or bringing the operation back in house.

3.4 BHP board is clear that it wishes to pursue business objectives that are compatible with the Council's housing priorities. Essentially for BHP to be successful it needs to maintain sufficient stock under management to enable average management costs to be kept reasonable. BHP has recently bid unsuccessfully (in partnership with the Royal Borough of Kensington and Chelsea (K and C) ALMO) for housing management contracts with Westminster City Council and is also pursuing joint workings with K and C under the Gershon efficiency agenda and is investigating partnering/bidding possibilities for housing infra-structure projects. The housing service is also submitting an expression of interest in the next round of housing PFI , which BHP would essentially deliver in partnership with the local LIFT company . It is likely to comprise of a bid to build approximately 250 dwellings, in the main provided on land in the ownership of Brent's HRA and the local LIFT company/Primary Care Trust. Due to a combination of Brent's housing demand and the type of sites available the size of properties are likely to be skewed towards larger family sized units. BHP's credibility with potential partners is seriously undermined by not having in place an extended management agreement.

3.5 Performance of BHP in the last 3 years shows that it is performing well and is popular with tenants. In May 2003, BHP achieved the highest possible rating from the Housing Inspectorate, who reported that BHP is an excellent (3 star) organisation with excellent prospects for improvement. This high rating enabled BHP to access £68million from external funding for the Decent Homes programme, and management of the Decent Homes Programme has been a major achievement by BHP. At 1/4/03, 2424 Council homes (30% of stock) met the Decent Homes standard. By 31/12/05, this had increased to 6066 homes (80% of stock). The remaining 1593 homes that do not meet the standard are scheduled to be improved by the end of 2006, 3 years ahead of the government's target.

Performance of BHP is monitored regularly through its Delivery Plan which is agreed annually with the Director of Housing and Community Care and measures BHP performance against the relevant Audit Commission BVPIs as well as local indicators arising from consultation between the Council, BHP and local residents. Current performance shows that BHP is achieving performance commensurate with the top 25% of its peer group in the indicators relating to the average SAP rating (energy efficiency of dwellings), tenant satisfaction with opportunities for participation, percentage of repairs for which appointments were made and kept, and the average number of days to relet vacant properties. BHP is also achieving local performance targets for indicators relating to percentage of repairs completed within government time limits, average days to complete non-urgent repairs, percentage of repairs finished on first visit, percentage of tenants with over 7 weeks arrears, percentage of tenants where Notice of Seeking Possession has been served,

escalation rate from Stage 1 to Stage 2 complaints, percentage of correspondence answered in time scale and percentage of invoices paid within 30 days. In general the performance indicators have improved since the ALMO has been operational.

Satisfaction with services has increased significantly since the ALMO was set up. A customer survey in March 2001 found that just 46% of tenants were satisfied with the overall service provided. The most recent survey, in September 2005 found that 75% of tenants were satisfied with the overall service. Similarly, satisfaction with opportunities for participation increased from 33% in March 2001 to 75% in September 2005. A survey in February 2003 found that 19% of tenants thought that services had improved under BHP and 13% thought they were worse. In September 2005, the proportion who thought services had improved had increased to 48% and only 10% thought they were worse. The September 2005 survey also found high levels of recognition and support for BHP – 74% of tenants could name BHP as the organisation that manages their home, and 57% agreed that BHP should continue to manage their home, while only 9% disagreed. The BVPI performance indicators directly contribute to the ODPM's overall assessment of the Housing services performance.

Although a separate organisation, BHP has adopted policies for Complaints, Customer Care and Equalities that are consistent with those of the Council and have contributed to the Council's improved complaints management and development of their Equalities Scheme.

The high performance levels and improved customer satisfaction ratings indicate that the present management arrangements with BHP are working effectively and achieving the improvements envisaged by the Council and the ODPM. The separation of strategic from operational functions is enabling the Council and BHP to concentrate on their respective areas of strength and feedback from customers indicate that tenants are seeing the benefits of these arrangements.

3.6 A further issue that makes an early decision advisable is the pending inspection of BHP by the Housing Inspectorate in December 2006. The inspectors last assessed BHP in May 2003 and will be aware that the organisation is one of the longer established ALMO's. They will consequently expect BHP to demonstrate that their business plan has taken account of the end of the initial 5 year Management Agreement in 2007, and that all possible steps have been taken to agree an extension with the Council. An extension of the Management Agreement will enable BHP to demonstrate good business planning, as well as giving the Inspectorate a positive message that the Council has confidence in BHP as its partner organisation and has responded to the feedback from tenants by extending the current arrangements with BHP. A positive inspection report for BHP will also have a knock-on effect in terms of the Council's CPA rating, and a positive endorsement of BHP by extending the Management Agreement is an opportunity for the Council to demonstrate its capability to implement and sustain long-term partnering arrangements.

3.7 The government is due to report on the options for the future of arms length companies. In many respects this exercise is not so much about ALMOs per

se but examines whether the ALMO initiative can deliver quality council housing outside of the onerous constraints of the current Housing Revenue Account Subsidy System (HRAS) and thus deliver council housing on a sustainable basis. Rounds 1 to 5 of the ALMO programme have seen the formation of 56 ALMOs, managing 740,000 homes. A further round (round 6) is expected to add a further 11 new ALMO's, managing another 100,000 homes and thus the sector is growing on the back of considerable investment incentives. However this report has been constantly delayed and will not now appear until June at the earliest

- 3.8 While an extension of the current Management Agreement has many potential benefits, the risks to the Council are limited. BHP is an established organisation with the highest inspection rating and a stable management team and workforce, and there is evidence that Council tenants are satisfied with the service and want the current arrangements to continue. The Council will retain the option, through the Management Agreement, to terminate the agreement in certain circumstances such as underperformance or poor financial management by BHP. The arrangement with BHP will continue to be monitored closely in order to ensure the current high standards are maintained and to give early warning should it be necessary of any issues that may be in breach of the Management Agreement. Whilst the Council owns BHP, the effective influence over performance standards is exercised through the management agreement.

It should be recognised that whilst the Council's main influence over performance is through the management agreement, BHP's board members carry out important governance responsibilities including finance, performance and personnel policies. Given these responsibilities are scrutinised by sub-committees and officers held accountable for their operational performance it is considered that the organisation has demonstrated sound corporate governance.

- 3.9 Members should also consider the options if they were mindful to terminate the contract.. In reality there are only two options these are to transfer the stock to a registered Social Landlord or to take the management of the stock back in house and disband BHP.

Transfer

When members considered setting up BHP the option of undertaking a transfer of the stock was considered the ALMO was the preferred option. It was considered that the property could be bought up to decent homes standard without property being transferred (something that had not been possible for estates such as chalkhill and Stonebridge that had been subjected to transfer). At this stage there is no financial reason for wishing to transfer the council stock that has achieved the decent homes standard. Note this does not include the majority of stock in South Kilburn and Barham Park estate where there has been separate decisions made. A test of opinion with tenants at the time showed that they preferred remaining as council tenants rather than transferring. Members are reminded that occupied council property can only be transferred to an alternative landlord if there is a positive vote by tenants. The improved satisfaction levels would suggest that tenants would find it difficult to understand any logical reason why the council would now

wish to transfer its remaining stock to an RSL. Any investigation of a prospective transfer would involve the investment of considerable resources and this route is therefore not recommended by officers.

Disband BHP and Management reverts back directly to local authority.

To date no local authority who has set up an ALMO has when considering whether to extend the management agreement or not decided to return the management to direct management. Therefore if members wished to do this we would have to liaise with ODPM to ensure that the process we were adopting was considered reasonable. It seems certain that they would want evidence that we had consulted with tenants and at least had a test of opinion as to their willingness for the ALMO to be disbanded. The evidence of the surveys detailed earlier in the report would suggest that satisfaction levels of the councils tenants with the current arrangements is increasing and the councils would have to make a strong case as to why reverting back to direct council control would give measurable added value to tenants. If BHP was failing to deliver effective services then there might be some argument but as they are constantly performing at a high level there is no justification to change the current arrangements. In economic terms again there is no financial advantage for the management to revert to direct control . Indeed we are seeking clarification from ODPM as to whether there would be a significant financial penalty , as we currently receive advantageous subsidy for the capital costs arising from the decent homes work which may not be payable should the ALMO be wound up.

In conclusion It should be recognised that under current government policies direct management of stock is not encouraged and thus the ALMO and stock transfer route effectively meets the government's policy aspirations for local housing authorities to be enablers rather than direct housing managers. The Private Finance Initiative route is not a whole stock option but one that addresses specific estates. Members are reminded that performance is key to such decisions and based upon the current Best Value (BV) inspection Brent Housing partnership has attained a 'Three Star' rating. .

Members are therefore asked to agree to a five year extension to the Management Agreement from October 2007 to 2012 in order to support the continued high level of service received by residents and to avoid any disruption or uncertainty that may have an adverse effect on services.

4.0 Financial Implications

- 4.1 Brent Housing Partnership Ltd (BHP) is a Company Limited by guarantee and wholly owned by the Council. BHP expenditure forms part of the Council's statutory Housing Revenue Account (HRA) directly through spending HRA resources on items such as repairs and maintenance and indirectly through the fee paid to BHP for managing the dwelling stock.
- 4.2 Additionally, BHP operates its own financial accounts in which they account for transactions associated with their management fee and other areas. These accounts are totally separate to the Councils' and are managed by BHP in line with Company's Act requirements.

- 4.3 There are no financial implications arising directly from this report if members agree to the extension of the current agreement.
- 4.4 The Government is due to report on the future of Arms Length Companies in the coming months and it is anticipated that this report may introduce new additional financial freedoms and flexibilities for high performing ALMO's. With an extended management agreement, and subject to a successful inspection, BHP would be in a position to take advantage of any proposed financial freedoms and flexibilities for high performing ALMOs. Adoption of any such freedoms and flexibilities would be subject to Executive approval.
- 4.5 If Members do not agree to an extension of the management agreement with BHP, then this report sets out two options for the management of the stock, which are stock transfer or reverting to direct management of the stock. Progressing either of these two options would result in significant costs. The cost of organising a stock transfer, or reverting to direct management of the stock is estimated at up to £750k and £400k respectively, and this would have to be met from the HRA. Additionally, for a stock transfer, there will be other financial issues to address, such as overhanging debt, the closure of the HRA, and Council recharges. These costs would fall to be borne by the HRA or General Fund, as appropriate. No specific budget currently exists for these purposes.

5.0 Legal Implications

- 5.1 Standing Order 112 (b) states that 'Contracts may be extended in accordance with the provisions for extension contained in the contract if the parties agree and if the relevant Chief Officer is satisfied that the extension will achieve best value and is reasonable in all the circumstances'.
- 5.2 The Standing Order also stipulates that extensions for more than one year must be notified to the Borough Solicitor, the Director of Finance and Corporate Resources, and all extensions must be notified to the Contracts Register Officer.
- 5.3 If Members do not agree to extend the contract it will come to an end on 30th September 2007. Extension of the contract does not in any way prejudice the Council's ability to terminate the contract - the obligations and duties of both parties will remain the same under the Management Agreement and Memorandum & Articles of the company.
- 5.4 If Members decide not to extend the contract and alternative arrangements for management of the stock need to be made, then section 105 of the Housing Act 1985 requires the council to undertake consultation with secure tenants before making any changes. This would apply even if management of the stock was to return to the Council. Any stock transfer option has a long lead-in time with significant consultation requirements, in addition to the time required to select and negotiate with the proposed new landlord. The time taken to pursue other options is not of itself a reason to renew the contract with BHP; if Members wanted to pursue another option, and more than 18 months was required, it is possible that interim arrangements could be made with BHP whereby the contract would be extended for less than 5 years.

6.0 Diversity Implications

- 6.1 The Management Agreement requires BHP to deliver services in a manner consistent with the Council's Equalities policy. BHP have demonstrated full

commitment to the Council's policy, have adopted their own Equalities Scheme and have supported the Housing Service in completing key tasks in the Council's Equalities Scheme.

7.0 Staffing/Accommodation Implications (if appropriate)

- 7.1 There are no direct staffing implications arising from the recommendation. However if the Council chose not to extend the Management Agreement, it is likely that that 200 staff currently employed by BHP would transfer to Council employment under the TUPE regulations.

Background Papers

Arms Length Management Organisation (ALMO) – round 2 bid; report from the Director of Housing Services to the Public Sector Deciding Committee, 13th February 2002

Arms Length Management Organisation; report to the Executive from the Director of Housing Services, 29th July 2002

Arms Length Management Organisation; report to the Executive from the Director of Housing Services, 17th September 2002

Quality & Choice: A decent home for all; Department of the Environment, Transport and the Regions, 2000

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